

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

SALADINE Q. RICHARDSON,

Plaintiff,

v.

**Civil Action No. 5:10cv39
(Judge Stamp)**

FAIRMONT CITY POLICE DEPARTMENT, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

On this day, the above-styled matter came before the Court for consideration of the Civil Rights complaint of the plaintiff, Saladine Q. Richardson. A review of the file shows that the plaintiff initiated this case on March 31, 2010. With his complaint, the plaintiff also filed an Application for Leave to Proceed *in forma pauperis*, a Prisoner Trust Account, and a Consent to Collection of Fees from Trust Account. The plaintiff's request to proceed as a pauper was granted on April 1, 2010. However, the plaintiff was ordered to pay an initial filing fee of \$7.50 within twenty-eight (28) days of entry of the date of the order granting him pauper's status. The order was sent to the plaintiff by certified mail, return receipt requested. Service was accepted at the Stevens Correctional Center on April 2, 2010.

On May 4, 2010, Magistrate Judge Joel conducted a review of the file and determined that the plaintiff had failed to pay the required initial filing fee. Therefore, Magistrate Judge Joel directed the plaintiff to show cause within ten (10) days, why the complaint should not be dismissed for the failure to prosecute. On May 17, 2010, the plaintiff submitted a proposed "Order Showing Good Cause." Upon review of this filing, Magistrate Judge Joel concluded that the plaintiff had demonstrated good cause for his failure to pay the required initial partial filing fee. Accordingly, Magistrate Judge Joel entered an Order on May 25, 2010 granting the plaintiff an additional twenty-eight (28) days to pay the fee. The Order advised the plaintiff that the failure to show cause could result in dismissal of his case. Again,

the order was sent by certified mail, and service was accepted at the Stevens Correctional Center on May 27, 2009.

Upon review of the file on this date, the Court finds that the plaintiff has not complied with the Court's order of, has not requested an extension of time to do so, or otherwise explained his reasons for noncompliance. Accordingly, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, it is ORDERED that the plaintiff's complaint [Dckt.1] is hereby **DISMISSED WITHOUT PREJUDICE** for the failure to prosecute, and his Motion to Appoint Counsel (Dckt. 6) is **DISMISSED AS MOOT**. It is further ORDERED that this civil action be **DISMISSED** and **STRICKEN** from the active docket of this Court.

Should the plaintiff choose to appeal the judgment of this Court to the United States Court of Appeals for the Fourth Circuit, he is ADVISED that he must file a notice of appeal with the Clerk of this Court within 30 days after the date of the entry of the judgment order. Upon reviewing the notice of appeal, this Court will either issue a certificate of appealability or state why a certificate should not issue in accordance with Federal Rule of Appellate Procedure 22(b)(1). If this court should deny a certification, the plaintiff may request or circuit judge of the United States Court of Appeals for the Fourth Circuit to issue the certificate.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to the plaintiff by certified mail, return receipt requested, to his last known address as reflected on the docket sheet. Pursuant to Federal Rule of Civil Procedure 58, the Clerk is directed to enter judgment on this matter.

DATED: June 30, 2010

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE